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GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

MINES & MINERALS – ANDHRA PRADESH MINOR MINERAL AUCTION RULES, 2022 - ORDERS – ISSUED.

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INDUSTRIES & COMMERCE (MINES-III) DEPARTMENT

G.O.MS.No.14 DATED:14/03/2022
Read the following:

1. G.O.Ms.No.1172, Ind. & Com. Dept., Dt: 04-09-1967.
2. G.O.Ms.No. 65, Ind. & Com. (M.III)Dept., Dt. 04.08.2021.
3. From the DM&G, AP., Letter No. 4072/P/2021, Dt: 13.09.2021.
4. From the DM&G, AP., Letter No. 4072/P/2021, Dt: 29.09.2021.
5. Govt Memo No. MG0MINM/19/2022/M.III Dt. 11/10/2021.
6. G.O.Ms.No. 8, Ind. & Com. (M.III)Dept., Dt. 16.02.2022.
7. From the DM&G, AP., Letter No. 4072/P/2022-2,Dt:21.02.2022.
8. G.O.Ms.No.13, Ind. & Com.(M.III)Dept., Dt.14/03/2022.

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O R D E R:-

The Government, after careful examination of the circumstances reported by the DM&G, AP., vide Letters 3rd, 4th & 7th read above, and keeping in view the orders issued vide G.Os 2nd & 8th read above, have decided to formulate the following rules called "The Andhra Pradesh Minor Mineral Auction Rules, 2022".

Accordingly, the following notification will be published in the Extra-Ordinary issue of the Andhra Pradesh Gazette with effect from 15/03/2022.

NOTIFICATION

In exercise of the powers conferred by sections 15 and 23C of the Mines and Minerals (Development and Regulation) Act, 1957 (Central Act 67 of 1957), the Governor of Andhra Pradesh hereby makes the following rules regulating the grant of mining leases in respect of minor minerals in the State of Andhra Pradesh and for purposes connected therewith, namely:-

PART – I

PRELIMINARY

1. Short title:

These rules may be called the Andhra Pradesh Minor Mineral Auction Rules, 2022.

2. Definitions

1. (1) In these rules, unless the context otherwise requires;-

(P.T.O)

(a) "Act" means the Mines and Minerals (Development and Regulation) Act, 1957(67 of 1957);

(b) "Assistant Director" means "Assistant Director of Mines and Geology of the jurisdiction concerned, Government of Andhra Pradesh".

(c) "Auction Premium Amount" means the price quoted by the bidders in accordance with these rules.

(d) "Deputy Director", means "Deputy Director of Mines and Geology of the District concerned, Government of Andhra Pradesh".

(e) "Director", means "Director of Mines and Geology, Government of Andhra Pradesh".

(f) "E-auction", means "electronic auction"

(g) "Government", means "Government of Andhra Pradesh"

(h) "Local societies" include Labour Contract Cooperative Societies registered before District Cooperative Registrar under the Andhra Pradesh Co-Operative Societies Act, 1964 or the Andhra Pradesh Mutually Aided Co-Operative Societies Act, 1995 for the purpose of quarrying and shall include Co-operative Societies consisting exclusively of Adivasis/Tribal's or individual Adivasis/Tribal's in case of Scheduled areas.

Provided that any concession in this tender document shall be provided to local societies who are falling in the same mandal as the proposed area of quarry lease and such concession shall be extended to the local societies to obtain the quarry leases for a maximum total extent of twelve (12) hectares in the State.

Explanation: In order to determine the local status of the societies to be considered for the concession and subsequent participation in the e-auction process, all the members such local societies shall be residing in the same mandal as that of the respective Local society.

(i) "NIT" means "Notice Inviting Tender"

(j) "Preferred bidder" means the bidder referred to in sub-clause (iii) of clause (v) of sub-rule (d) of rule 9;

(k) "Qualified bidders" means the bidder referred to in clause (ii) of sub-rule (d) of rule 9;

(l) "Reserve Price" means a price, which shall be the minimum price above which the bidders shall quote their bids.

(m) "Section" means section of the Act;

(n) "Technically Qualified Bidders" means the bidder as referred to in clause(iv) of sub-rule (d) of rule 9;

(0) "Tender Document" means the tender document issued by the Director of Mines & Geology for conduct of an e-auction referred to in sub-rule(b) of rule 11;

(2) The words and expressions used in these rules but not defined herein shall have the same meaning as assigned to them in the Act and Rules made there under.

3. Application- These rules shall extend to the whole state of Andhra Pradesh and shall apply to all minor minerals except for the following:

(i) Mineral bearing areas reserved in favour of State or Central PSUs as per APMMC Rules, 1966.
(ii) Ordinary Sand
(iii) Patta lands where Pattadar has not provided their concerned for e-auction.
(iv) Forest lands.
(v) Mineral bearing areas for which notices (LOIs) were issued.
(vi) Existing Prospecting Licenses granted under APMMC Rules 1966

PART –II

SELECTION OF PREFERRED BIDDER FOR GRANT OF QUARRY LEASE

(4) Selection of Preferred Bidder:

Preferred Bidder shall be selected by the Director through an electronic auction in the manner as specified in these Rules.

(5) Period of Quarry Lease:

The period for which a quarry lease shall be granted for the minor minerals specified under these Rules as per Rule 12(5) and 15 of the Andhra Pradesh Minor Mineral Concession Rules 1966, as the case may be.

(6) Prerequisites for e-auction:

(a) The Director shall take prior approval of the Government for terms and conditions of the tender document before initiation of auction process.

(b) The Director may initiate an auction process for grant of a quarry leases with respect to an area within the State in accordance with these Rules.

(c) The Assistant Director of Mines & Geology shall identify and demarcate the area where a mineral concession is proposed to be granted through auction using Electronic Total Station (ETS) or Differential Global Positioning System (DGPS) and the area so demarcated shall be classified into forests land, land owned by the Government and private persons along with NOC from the concerned departments and furnish the details to the Director through the Deputy Director of Mines & Geology concerned.

(d) The Director shall issue Notice Inviting Tender with respect to mineral concession auction after receipt of the proposals from the Deputy Director of Mines & Geology concerned.

(e) The extent of area so demarcated shall include area required for all the activities falling under the definition of 'mine' as defined in clause (j) of sub-section (1) of section 2 of the Mines Act, 1952.

(f) The minimum area proposed for e-auction for grant of quarry lease under these Rules shall be four (4) hectares.

(g) The Director of Mines and Geology on his satisfaction after due consideration of production level, Geographical or Topographical condition may for reasons to be recorded in writing, decrease the minimum area proposed for e-auction for grant of quarry lease for all minor minerals except Ordinary Sand such that the minimum are shall not be less than one (1) hectare.

(h) The non-refundable tender document fee shall be as specified by the Director in the tender document.

Provided that a concession of 50% of the tender document fee shall be provided to Local societies and such concession shall be extended to the local societies to obtain the quarry leases for a maximum total extent of twelve (12) hectares in the State.

(7) <u>Eligibility of participating in the e-Auction:</u>

(a) For the purpose of participating in the auction of Quarry lease, the terms and conditions of eligibility as specified in the sub-rule (b) below.

(b) The applicant, shall have a minimum net worth, as specified by the Director in the tender document.

Provided that the Net worth requirement of Local societies shall be 50% of the minimum net worth fixed and such concession shall be extended to the local societies to obtain the quarry leases for a maximum total extent of twelve (12) Hectares in the State.

Explanation:

(i) In case an applicant is a subsidiary of another company incorporated in India, the net worth of such holding company may also be considered:

Provided that, in such case, the applicant shall continue to be a subsidiary of such holding company until such time the applicant meets the aforementioned net worth threshold.

(ii) In case of a company, the net worth shall be the sum of paid up share capital and the free reserves as per the audited balance sheet of the financial year ended immediately preceding the date of issuance of notice inviting tender.

(iii) In case the notice inviting tender is issued between 1st April to 30th September (both days inclusive) of a year, the audited balance sheet of the financial year before the immediately preceding financial year, from the date of issuance of notice inviting tender, may be submitted by the bidder, if the audited balance sheet of the immediately preceding financial year is not available.

(iv) In case of an individual, the net worth shall be the closing cash balance on the last date for submission of application, and such amount may include amount in savings bank accounts in Scheduled Bank or Post Office, free and un-encumbered fixed deposits in Scheduled Banks, Post Office, Listed Companies or Government organisation or Public Sector Undertakings of a State and the Central Government, Kisan Vikas Patra, National Saving certificate, Bonds, Shares of Listed Companies, Listed Mutual Funds, Unit Linked Insurance Plan, Public Provident Fund, Surrender Value of Life Insurance policies, and un-encumbered immovable property in the name of Applicant.

(c) The State Government may, regard to article 244 and the Fifth Schedule to the Constitution, the provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996 (40 of 1996); and the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (2 of 2007), make such amendments to the terms and conditions of eligibility as it may deem necessary.

(d) The bidder(s), either individually or group of associations, shall not have any mineral revenue dues to the Government at the time of submission of bid in e-auction.

Explanation: The partner/director of the company having shareholdings in another quarry/mining leases held in the State shall not have any Mineral revenue dues for such quarry/mining leases to the Government.

(e) The bidder shall satisfy such conditions as may be prescr ibed by the Director of Mines & Geology in the Tender Document.

(f) The eligibility for participating in the auction shall be determined as per the specified terms and conditions of eligibility and the Preferred Bidder shall be decided solely on the basis of financial bids submitted by the eligible bidders.

(g) Notwithstanding anything contained in APMMC Rules, 1966, a quarry lease for areas falling in the notified Tribal Areas shall be granted only in favour of Co-operative Societies consisting exclusively of Adivasis/Tribals or individual Adivasis/Tribals through e-auction conducted by Director.

(8) Electronic Auction :-

(a) An auction shall be conducted only through an online electronic auction platform.

(b) The Director may utilise any online electronic auction platform which meets the minimum technical and security requirements as specified in the Guidelines for compliance to Quality requirements of e-Procurement Systems issued by the Standardisation Testing and Quality Certification Directorate, Department of Information Technology, Ministry of Communications and Information Technology, Government of India.

(9) Bid Security for the Tender document:-

The Bid security shall be as specified by Director in the tender document for the proposed area.

Provided that a concession of 50% of the Bid Security shall be given to Local societies and such concession shall be extended to the local societies to obtain the quarry leases for a maximum total extent of twelve (12) Hectares in the State.

(10) Bidding parameters-

(a) An e-auction for selection of preferred bidder for grant of quarry lease shall be conducted for determination of "Auction Premium Amount".

(b) For determination of auction premium amount, the reserve price for quarry lease shall be in the multiples of Dead Rent per Hectare per annum as specified by Director in the tender document of the proposed area for the particular mineral, in Indian Rupees.

(c) The bidders shall quote, over and above the reserve price, for the purpose of payment to the State Government, an amount in Rupees as "Auction Premium Amount".

(d) The bidders shall quote, as per the bidding parameter, for the purpose of payment to the Government, an amount more than the reserve price and the Auction premium amount so quoted shall not be adjusted against annual dead rent or seigniorage fee, as the case may be.

(11) Bidding Process.-

(a) The Director shall issue a notice inviting tender on their website to commence the e - auction process and such notice shall contain brief particulars regarding the area under e-auction, including location, extent, mineral and ETS/DGPS Geo-coordinates.

(b) The tender document issued by the Director of Mines and Geology shall contain.-

i. Revenue survey details of the area identified and demarcated, shall be divided into forests land, land owned by the Government, and land not owned by the Government.
ii. Plan showing the area with DGPS Coordinates attested by the Tahsildar and Assistant Director of Mines & Geology concerned.
iii. List of clearances and permissions already obtained with respect to such area.
iv. No Objection Certificate (NOC) obtained from the Tahsildar concerned in the case of Government land, Consent from Pattadar in the case of Pattaland and in case of areas falling within 500 m from the boundary of the Forest land, an In-Principle Consent/Approval from DFO concerned.

Provided that the NOC, Consent from Pattadar and In-Principle Consent/Approval from DFO concerned shall be obtained by Assistant Director of Mines & Geology prior to issue of NIT.

(c) The bidders shall be provided a fixed period, as notified by the Director to study the tender document and such reports and the bidding process shall commence only on expiry of such period.

(d) The auction shall be an ascending forward online electronic auction and shall comprise of the following rounds, namely:-

(i) First Round of Auction to be held in the following manner, namely:-

(I) the bidders shall submit;-
(1) a technical bid comprising amongst others, documentary evidence to confirm eligibility as per the

provisions of the Act and the rules made thereunder to participate in the auction, bid security and such other documents and payments as may be specified in the tender document; and

(2) an initial price offer which shall be above the reserve price;

(II) only those bidders who are found to be eligible in accordance with the terms and conditions of eligibility specified in these Rules and whose initial price offer is greater than the reserve price, referred to as "technically qualified bidders", shall be considered for the second round of electronic auction;

Provided that the Director shall constitute a Committee for evaluation of the Technical bids received and to recommend the "technically qualified bidders".

(III) The Highest initial price offer amongst the technically qualified bidders quoted above the reserve price shall be the floor price of the second round of online electronic auction.

(IV) The technically qualified bidders shall be ranked on the basis of the descending initial price offer submitted by them and the technically qualified bidders holding the first fifty percent of the ranks (with any fraction rounded off to higher integer) or the top five technically qualified bidders, whichever is higher, shall qualify as qualified bidders for participating in the second round of electronic auction;

Provided that if the number of technically qualified bidders is between three and five, then all the technically qualified bidders shall be considered as qualified bidders.

Provided further that in the event of identical initial price offers being submitted by two or more technically qualified bidders, all such technically qualified bidders shall be assigned the same rank for the purposes of determination of qualified bidders and in such case, the aforementioned fifty per cent shall stand enhanced to the extent of tie occurring within the first fifty per cent.

Illustration:

(i) In the event there are a total of ten technically qualified bidders, and each technically qualified bidder submits different initial price offer, then the technically qualified bidders holding the first fifty per cent of ranks shall be considered to be qualified bidders.

(ii) If three such technically qualified bidders submit the same initial price offer and are ranked in first fifty per cent of the total number of ranks, then, all the three technically qualified bidders shall be considered to be

qualified bidders and the total number of qualified bidders shall stand increased by two.

(V) Where the total number of technically qualified bidders is three or more, the auction process shall proceed to the second round of auction which shall be held in the following manner, namely:-

(i) The qualified bidders may submit their final price offer which greater than the floor price:

Provided that the final price offer may be revised till the conclusion of the auction as per the technical specifications of the auction platform;

(ii) The auction process shall be annulled if none of the qualified bidders submits a final price offer on the online electronic auction platform;

(iii) The qualified bidder who submits the highest final price offer shall be declared as the "preferred bidder" immediately on conclusion of the auction.

(VI) Where the total number of technically qualified bidders is less than three, then no technically qualified bidder shall be considered to be qualified bidder and the first attempt of auction shall be annulled.

(VII) On annulment of the first attempt of auction, the Director may decide to;-

(a) commence the auction process de novo with a separate set of terms and conditions and reserve price as it may deem fit and necessary; or

(b) Conduct the second attempt of auction.

(VIII) In case the Director decides to conduct the second attempt of auction as per clause (ii) of sub-rule (g) above, the terms and conditions of the second attempt of auction shall remain the same as in the first annulled attempt of auction

Provided that the highest initial price offer of the technically qualified bidders if any in the first annulled attempt shall be the reserve price in first round of the second attempt:

Provided further that the bidding shall continue to the second round even in case the number of technically qualified bidders is less than three.

(IX) Second Round of Auction to be held in the following manner, namely:-

i. The qualified bidders may submit their final price offer which shall be greater than the floor price:

Provided that the final price offer may be revised till the conclusion of the auction as per the technical specifications of the auction platform;

ii. The auction process shall be annulled if none of the qualified bidders submits a final price offer on the online electronic auction platform;

(X) The qualified bidder who submits the highest final price offer shall be declared as the "preferred bidder" by Director immediately on conclusion of the auction.

(12) <u>Grant of Quarry Lease</u> :-

(a) Upon completion of auction process, the preferred bidder shall pay the Auction Premium amount to Director in the Head of Account as specified by the Director of Mines and Geology within two weeks from completion of e-auction.

(b) Upon receipt of the Auction Premium amount, the Director of Mines and Geology / Deputy Director of Mines and Geology concerned, as the case may be, shall issue a notice (letter of intent) to the preferred bidder as specified in sub-rule (d) below.

(c) In case, preferred bidder is not able to furnish the Auction Premium amount within two weeks from completion of e-auction, the second highest bidder will be given preference by the Director to match the highest Auction Premium amount and after remittance of the highest Auction Premium Amount, the respective bidder shall become preferred bidder and a Notice (Letter of Intent) be issued as per sub-rules (a) and (b) above.

(d) The Preferred Bidder shall comply with the following conditions for grant of Quarry lease deed within the period specified in rule 7 & 12(5) of the APMMC Rules 1966, for the minor minerals as the case may be:-

i. Continuing to be in compliance with all the terms and conditions of eligibility;
ii. Submission of Security Deposit as specified by the Director in the tender document.
iii. Obtaining Approved Mining Plan, Environmental Clearance, Consent for Establishment, Forest Clearance (in case of Forest land) and any other relevant consents, approvals, permits and the like as may be required under applicable laws for commencement of quarry operations;
iv. Satisfying such other conditions as may be specified by the Director of Mines and Geology.

v. Affidavit regarding annual minimum production conditions to be submitted as specified in the Tender document.

(e) Upon fulfillment of the conditions specified above, the Director of Mines and Geology/ Deputy Director of Mines and Geology concerned, as the case may be, shall grant a Quarry Lease to the Preferred Bidder and such Quarry Lease shall be subject to the provisions of APMMC Rules 1966.

(f) If the Preferred Bidder failed to fulfill the conditions specified in sub rule (d) above within the specified period, the notice issued as per sub rule (b) above shall deemed to be cancelled and payments made so far shall be forfeited.

(g) The Quarry Lease Deed shall be executed by the Assistant Director of Mines & Geology as per Rule 12(5)(e) and 13(1) of the APMMC Rules 1966, for the respective minor minerals, as the case may be.

(h) Any new mineral is discovered in the Quarry Lease area granted through auction during the lease period, then the holder of Quarry lease shall follow the provisions of the APMMC Rules, 1966 as amended from time to time for inclusion of such new mineral in the Quarry Lease Deed.

(i) The date on which the Quarry Lease Deed is duly executed shall be the date of commencement of the Quarry lease.

(13) Security Deposit for Quarry Lease

The security deposit shall be provided as the manner prescribed by Director which may be invoked as per the provisions of Quarry Lease Deed and existing APMMC Rules, 1966.

(14) Time Period

The time period for compliance of these rules shall be as specified in the tender document.

PART – III

MISCELLANEOUS

(15) Right of first refusal to Local societies:

In case of auction of quarry leases, Local societies shall be given right of first refusal in the auction of quarry leases falling within their Mandal.

Provided that such Local societies shall be a Qualified Bidder in the auction of that particular area and match the highest premium amount quoted for such quarry lease in e-auction conducted by Director.

Provided further that the total extent of quarry leases to be held by such local Societies shall be twelve (12) hectares in the State of Andhra Pradesh by using the Right of first refusal under this rule.

(16) <u>Right of first refusal to the existing quarry lease holders</u>,-

(i) In the cases of the existing leases covered under the areas of pattalands where the consent is provided and Government lands, on the expiry of the lease period, the area shall be put up for e-auction.

(ii) The process of e-auction shall be started well in advance so that before the expiry of the lease period, new lease may be granted without any gap;

(iii) The existing lessee shall have right of first refusal at the time of e-auction held for such lease after expiry of the lease period in the following manner namely;-

(a) to be eligible to exercise the right of first refusal, the lessee shall comply with the conditions of the mining lease, the act and the rules made thereunder till its expiry and shall emerge as technical qualified bidder as per provisions laid down in these rules.

(b) upon conclusion of the e-auction, the Director of Mines & Geology shall issue a notice to the lessee seeking written confirmation of his/her willingness to exercise the right of first refusal within a period of seven days of the conclusion of the e-auction;

(c) the notice given under clause (ii) shall be acknowledged by the lessee and who shall, within a period of two weeks of receipt of notice, exercise the right of first refusal in writing to the Director of Mines & Geology, failing which it shall be construed that the lessee is not desirous of exercising the right of first refusal and the successful bidder shall be entitled to a mining lease in the manner provided in these rules

(d) if these lessee exercise the right of first refusal and matches the highest final offer price, the lessee shall be deemed to be successful bidder in place of the earlier successful bidder declared after the e-auction shall be entitled to a mining lease in the manner provided in these rules.

(e) in case the lease holder or preferred bidder or LoI holder, expires the lease shall be considered to be granted in the name of the successor of the deceased person.

(17) Procedure for grant of quarry leases in areas held by private persons (pattalands),-

(a) In a proposed mineral block, where the land owned by the Private persons (pattalands) is more than 75% of the total proposed area, then proposed mineral block shall be considered as Pattaland and shall be disposed as per the procedure laid down in these rules and APMMC Rules 1966.

(b) For the mineral bearing areas which are falling in pattalands and where the pattadar concerned has provided consent for grant of quarry lease through e-auction;

Prior to issue of NIT for conduct of e-auction in areas held by private persons, a consent from Pattadar, as the case may be, shall be obtained by Assistant Director of Mines and Geology by entering into an agreement with the pattadar or person authorized by Pattadar in this regard as per sub-rule (c) below.

Provided that the Consent received from Pattadar shall be irrevocable and shall be valid till expiry of lease period or till exhaust of the mineral, whichever is later.

(c) The lease holder shall pay an additional amount equal to twenty percent (20%) of Seigniorage Fee to pattadar on mineral dispatches made from the lease area through the Director on monthly basis.

(18) Publishing of Successfully auctioned areas' details

(a) The Director shall publish the details of the Successfully auctioned blocks in the website of Department of Mines & Geology on monthly basis with the following details:

(i) Details of block – Name of the mineral, Location, Assistant Director of Mines and Geology's Jurisdiction and District.

(ii) Highest Auction Premium Amounts

(iii) Extent in Hectares and Highest Auction Premium Amount per hectare

(b)The Director shall also publish the district wise and mineral wise highest Auction premium amounts and the average hectare wise highest Auction premium amounts of the successfully auctioned blocks in the last 12 months and 36 months in the website of Department of Mines & Geology on monthly basis.

(19) Remittance of Auction Premium amounts to Department of Mines & Geology

The proceeds pertaining to Auction Premium amounts of successfully auctioned blocks shall be remitted as per the procedure laid down by Director.

(20) Powers to issue Orders/Clarifications/Guidelines:

The Government shall be the sole Authority to issue clarifications, exemptions, guidelines or relaxation orders from time to time, in implementation of these rules.

(21) Applicability of General Provisions:

The General provisions of Minor Mineral Concession Rules, 1966 or any subsequent rules/amendments to be issued by Government or the orders, guidelines, clarifications issued by Government in this regard from time to time shall apply to any situation, which is not expressly stated herein.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

GOPAL KRISHNA DWIVEDI
PRINCIPAL SECRETARY TO GOVERNMENT(MINES)

To
The Commissioner of Printing, Stationery & Stores Purchases (Printing Wing) Andhra Pradesh, Vijayawada. (with a request to publish the above notification and arrange to send 200 copies of the same to the Government in Industries & Commerce (M.III) Department and 100 copies to the Director of Mines & Geology, A.P., Ibrahimpatnam,Vijayawada).
The Director of Mines & Geology, Andhra Pradesh, Ibrahimpatnam.
The Chief Executive Officer, MERIC, Vijayawada.
All the District Collectors in the State.
All the Joint Director /Deputy Director / Asst. Director of Mines & Geology through the Director of Mines & Geology,Ibrahimpatnam.
Copy to:
The Secretary to Govt, Ministry of Mines, Govt. of India, Shastry Bhawan, New Delhi.
The RCoM, IBM,Room No:603, 6th Floor, CGO Tower, Kavadiguda, Secunderabad.
The Law Department.
The Finance Dept.
The OSD to Minister for Mines & Geology.
The PS to Prl. Secretary to Govt., (Mines)
SF/SC(Comp.No.1510364)

// FORWARDED :: BY ORDER //

SECTION OFFICER